

STATE EMPLOYEE COMPENSATION INTERIM COMMITTEE

JFAC Room, Statehouse, Boise, Idaho
December 21, 2005

MINUTES

(Subject to Approval by the Committee)

The meeting was called to order by Co-chair Senator John Andreason at 9:06 a.m. Other members present included Senator Joe Stegner, Senator John McGee, Senator Bert Marley, Senator Kate Kelly, Representative Larry Bradford, Representative Ken Roberts, Representative Rich Wills, Representative Jana Kemp, Representative Anne Pasley-Stuart, and Representative Shirley Ringo. Co-chair Representative Bob Schaefer was absent and excused for the morning session, and arrived for the afternoon session. Senator Dick Compton and Senator Mike Jorgenson were absent and excused. Staff present from the Legislative Services Office were Matt Freeman and Charmi Arregui.

Others present were: Dona VanTrease, Vicki Patterson and Vickie Burnet, Idaho Public Employees Association; Mark Dunham, Debi Alvord and Jane Buser, Boise State University; Amanda Brown, National Association of Government Employees/Local 687; Ann Heilman and Jay Anderson, Division of Human Resources; Brandon Woolf and Audrey Musgrave, State Controller's Office; Diana Jansen and Maria Gamet, Department of Health and Welfare; Tim O'Leary, Idaho State Police; Dave Tuthill; Shawna Gamache, Idaho Statesman; Joe Tueller, Department of Juvenile Corrections; Andrew Hanhardt, Service Employees International Union (SEIU); Olga Coply; Mary Harker, Idaho Transportation Department; and Gregg A. Anderson, Capitol Ministries.

Co-chair Senator Andreason asked for approval of the minutes from the previous meeting. **Representative Kemp moved that the minutes be approved dated November 28, 2005, seconded by Senator Marley; the motion passed by voice vote.**

The members of the committee had been given an updated proposal for a basic compensation statute, a copy of which is available in the Legislative Services Office, and **Mr. Matt Freeman** explained that this proposal reflected corrections requested by the committee at the meeting on November 28, 2005.

Representative Roberts stated that he had an issue on page 1 of the handout, line 28, paragraph (4), and asked **Mr. Freeman** to address the fiscal impact of that item. **Mr. Freeman** stated that based on the Division of Human Resources' CEC report released on December 1, 2005, the state would need to spend approximately 7.7% over the next

five years to reach market average; he pointed out that 5.7% was **Ms. Heilman's** recommendation (over ten years), but if the state wanted to reach market average in five years, it would take 7.7%. The most recent calculations show that the cost of a 1% CEC is about \$6 million; so a 7.7% would cost about \$46 million.

Senator Stegner stated that there should not be rigid standards or objectives in Idaho Code that are unattainable. **Senator Stegner moved that on page 1, lines 30 and 31, these words be stricken: " . . . and shall reach the midpoint average within five (5) years."**

Representative Roberts asked **Senator Stegner** if it was his intent to strike any reference to midpoint? **Senator Stegner** answered: "Not in this motion."

Representative Pasley-Stuart stated that, in her opinion, the language didn't mean anything without the five years.

Senator Kelly asked for clarification on the amount, and **Mr. Freeman** stated that the cost of a 7.7% increase would cost approximately \$47 million. **Senator Kelly** asked about **Ms. Heilman's** recommendations, how many years did she recommend and what was the cost annually? **Senator Andreason** handed out a letter to the committee members from **Ms. Heilman** to **Senator Andreason** dated December 21, 2005, which was a short summary of her CEC Report Recommendations, a copy of which is available in the Legislative Services Office. **Mr. Freeman** explained that in **Ms. Heilman's** report she recommended a 5.7% CEC; of that 5.7%, 3.7% was to keep up with the market, which moves annually, and the other 2% was to catch up (in ten years). The fiscal impact was approximately \$33 million in **Ms. Heilman's** report, but with Budget and Policy's new estimates of the higher cost, it would be closer to \$35 million. **Senator Kelly** asked about the difference between **Ms. Heilman's** recommendations in comparison to the revised proposal being considered. **Mr. Freeman** stated that \$12 million was the difference. **Senator Kelly** spoke in favor of some time frame; without that, she thought that the state was going to continue to fall behind market. Without a target, she feared that it was not going to happen, so putting it into statute was appropriate, to her, and the fiscally responsible thing to do.

Senator Stegner requested that **Ms. Heilman** address the committee with regard to the letter. **Ms. Heilman** stated that the State Employee Compensation Recommendation and Report issued December 1, 2005, had been sent to the committee members. **Ms. Heilman** pointed out that the costs escalate because a 5.7% raise would have a bigger base every year, so the numbers would be astronomical when looking at a ten-year plan, because that base would increase slowly. The five-year plan would cost less money, but obviously was a more intensive application of funds to this issue. **Ms. Heilman** went over the recommendations in her letter.

Senator Marley asked for clarification that the committee was revisiting a proposal already voted on previously at the last meeting on November 28, 2005. Traditionally, to

revisit something, it has to be raised by a member who voted on the prevailing side and he didn't think that was the case; he asked for policy clarification from the chair.

Senator Stegner spoke to the point raised, stating that Section 1 of the proposal was never adopted by this committee and, therefore, it was before the committee for consideration. **Representative Ringo** stated that there was a specific committee vote on the language of item (4) in Section 1, page 1, and wondered as to the significance of that if the committee was now considering that it was not passed, because the committee didn't vote on the section as a whole. **Senator Stegner** stated that his understanding was that Section 1 was wide open for consideration by the committee and any language within it, even though subsections had been discussed or voted on. **Senator Andreason** stated that it was the decision of the chair that even though a decision was made on item (4), the committee did not vote to adopt Section 1, so all items in Section 1 were open for further consideration.

Representative Roberts asked **Senator Stegner** for clarification on a motion made earlier. **Senator Stegner** referred to the word "shall", which could become the implied policy of the state to get to midpoint within a specific time frame, emphasizing that this was his concern. If the five-year limitation language was adopted, he thought it would jeopardize everything the committee had tried to do, and that it would most likely be amended or rejected by the legislature.

Representative Ringo asked if the 5.7% CEC as part of a ten-year plan were approved, what guarantee would there be that it would be followed in subsequent years or would it just be up to the will of the current legislature? **Senator Andreason** stated that it would be difficult to tell any future legislature what to do, but if this committee did its job and the germane committees in the respective houses approved going forth with a 5.7% recommendation, he believed that the legislature would accept it.

Senator Marley stated that without some timelines, he wondered about how much would be accomplished. His feeling was that this committee had the obligation and responsibility to make recommendations; that didn't mean that every recommendation would become legislation or be followed, but he thought this committee did have the obligation to say that this problem needs to be taken care of, and be willing to commit to a timeline to make it happen. **Senator Marley moved that the five-year timeline be changed to ten years, with a 5.7% increase, as suggested.** **Representative Pasley-Stuart seconded the motion.**

Representative Roberts stated that he was opposed to the motion for several reasons and he reminded the committee that House Concurrent Resolution No. 22 doesn't call the committee to talk about specific numbers or percentages. The regular CEC committee meets in January to make the actual recommendation for this forthcoming budget year, and he did not think it was this committee's job to do that. Also, he could not support a motion that locked in a time frame of specific years, obligating legislatures in the future to a plan that they may or may not be able to afford. **Senator Stegner** stated that his general concern was that a state employee might have grounds to sue

because the state had violated state law; he thought if the law was too rigid, that goals might not be met in any given year.

Representative Kemp made a substitute motion; she moved that, on page 1 of the proposal, line 30, it read: " . . . shall move through the pay range and *may expect to reach the midpoint average within ten years.*" The chair stated that the motion died for lack of a second.

Representative Roberts made a substitute motion that, on page 1 of the proposal, item (4), it read as follows: "All employees below the state's midpoint market average in a salary range who are meeting expectations in the performance of their jobs shall move through the pay range toward the midpoint market average." The motion was seconded by **Senator Stegner**.

Senator Kelly expressed her opinion that an employee suing the state was a very remote possibility. She also believed that the committee had identified a critical flaw in the state's compensation system in that it is not keeping up with market. Without a plan to address that critical flaw, she didn't know if the purpose of this committee would be served. To not adopt something because they thought it would not pass the legislature would be a failure on the part of this committee. **Representative Ringo** stated that she wanted something positive to come from this committee in terms of compensating public employees, as well as something that the legislature would accept, believing that means something specific.

Representative Ringo asked **Mr. Freeman** what the cost difference might be between the five-year and ten-year timelines. **Mr. Freeman** answered that at about \$6 million per 1% CEC; 7.7% would get us to market in approximately 5 years, with a cost of about \$47 million, or \$35 million for a 5.7% increase.

A roll call vote was taken on the substitute motion, and the motion passed. **Senator Marley, Senator Kelly, Representative Kemp, Representative Pasley-Stuart and Representative Ringo** were recorded as having voted "Nay."

Senator Stegner moved that on page 1, item (5), line 36, the second sentence read: "In order to provide this funding commitment in difficult fiscal conditions, it may be necessary *to increase revenues* and/or to prioritize and eliminate certain functions or programs in state government and/or reduce the overall number of state employees in a given year." The motion was seconded by **Representative Wills**. A roll call vote was taken and the motion passed. **Senator McGee and Representative Roberts** were recorded as having voted "Nay."

Representative Kemp asked if Section 1 should be approved in its entirety, and **Senator Andreason** invited a motion. **Representative Wills** moved that **Section 1** be accepted as amended. **Representative Kemp** seconded the motion. A voice vote was called for by the chair, and the motion passed. **Senator Marley, Senator**

Kelly, Representative Pasley-Stuart and Representative Ringo were asked to be recorded as having voted "Nay."

Mr. Freeman referred to page 2, Section 2, where some technical changes were addressed. **Senator Stegner moved that they open reconsideration of Section 2 on page 2; the motion was seconded by Representative Roberts.**

Senator Andreason called for a voice vote on the motion to open reconsideration of Section 2 on page 2, seconded by Representative Roberts, and the motion passed. Representative Pasley-Stuart was recorded as having voted "Nay."

Mr. Freeman pointed out suggested changes on page 2, Section 2, and some discussion took place. **Representative Kemp** suggested that on line 38 the word "*written*" be inserted between the words "upon" and "agreement" to distinguish between a potential oral agreement, which was of concern to her. **Senator Andreason** asked **Ms. Mary Harker**, Idaho Transportation Department, if a salary increase was in written form. She stated that agreements are not made with employees about salary, and she expressed concern about that language in general. **Ms. Heilman** stated that **Representative Kemp's** concern had already been addressed in administrative rules which have been promulgated, having the force and effect of law. In the Department of Human Resources Rule 220, the appointing authority shall furnish each employee with notice of every personnel action affecting employee status, pay, tenure, or other terms and conditions of employment including a copy of their performance evaluation. Some of these details are addressed in administrative rules. **Mr. Freeman** pointed out that this language on lines 35-39 is in current code, and there are rules to address how that is handled; nothing new had been inserted, but it may need to be there. **Senator Stegner moved that lines 38 and 39 on page 2, Section 2, read as follows: "The department director shall designate *in writing* whether such in-grade advancement is temporary, conditional or permanent."** Representative Kemp seconded the motion. **Senator Andreason called for a voice vote, and the motion passed unanimously.**

Senator Stegner referred to lines 25 and 26 on page 2, Section 2, and **he moved that the words "if approved in advance by" be stricken, and insert "when approved by the division of human resources."** **Senator Andreason called for a voice vote. The result of the voice vote was unclear, so a roll call vote was requested, the result being that the motion passed. Senator Marley, Representative Pasley-Stuart, and Representative Ringo were recorded as having voted "Nay."**

Representative Kemp asked if a merit increase matrix plan that could be adapted by an agency could include the Choice Plan presented by the Idaho State Police (ISP)? **Ms. Heilman** stated that the ISP Choice Plan was designed with great care so that the movement would be based on performance, adding that it would fit within this matrix, as well as other agencies; it would also have some structure which could be reported back to the legislature about an agency's distribution and what that impact was. **Senator**

Kelly asked **Senator Stegner** why he requested the change from "if approved in advance" to "when approved by the division of human resources?" **Senator Stegner** answered that it was simply to remove the "in advance" language that might cause some confusion as to the sequence of events on how an agency might go about adapting their matrix.

Mr. Freeman then referred to page 2, subsection (8), asking whether the committee wanted to discuss benefits for part-time employees? **Senator Stegner** asked **Mr. Freeman** if the consideration of part-time employee benefits was on the agenda for December 21st and **Mr. Freeman** stated that it was not. **Senator Stegner** requested that the committee move on and not debate the part-time employee benefit issue which was not before the committee for consideration on their agenda. **Senator Stegner then moved that the words "Notwithstanding any other section of Idaho Code," be added to page 2, line 54, at the beginning of subsection (8); the motion was seconded by Representative Kemp. Senator Andreason called for a voice vote and the motion passed unanimously.**

Representative Kemp moved that the committee accept Section 2 as amended; Senator Stegner seconded the motion, and the motion passed unanimously by voice vote.

Mr. Freeman pointed out several technical changes on page 3, Section 3, (d) lines 44-46. **Senator Stegner** requested unanimous consent to accept those modifications; there were no objections.

Mr. Freeman referred to page 4, Section 4, which addressed "Other Pay Delivery Options" on the agenda which included: bonuses, employee suggestion awards, moving expenses and geographic and shift differential. This section was all new language, having deleted current code provisions on these items. **Representative Roberts** pointed out one of the reasons for subsections (1) through (6) was for reporting by October 1st; the committee had struggled to find out the reality of the cost of having employees and all the components of their salaries; the intent was to have a report and a cost for legislators who are the policymakers for the state, allowing them to make well-informed decisions. This was the reason for the reporting back to the legislature and DFM. **Senator McGee** pointed out that in highly specialized positions, whether nurses or engineers for example, he thought Section 4 would help many departments.

Representative Kemp expressed concern about Section 4, subsection (1) regarding allowing directors to have full power and control over the exception of giving above and beyond \$5,000. **Senator McGee** referred to line 11, stating that the department would have to submit to DFM and to the legislature a report on these bonuses, and he thought that department directors must be given flexibility and trust, along with accountability. **Representative Kemp** asked about a cap on geographic differential pay in Section 4, (4) (b). Could this language leave open the possibility of a bonus amounting to tens of thousands of dollars to recruit an employee into a position based on geographic

conditions? **Representative Roberts** stated that there was no cap because nobody knows today what the cost of housing in a certain area of the state might be in the future.

Senator Kelly commented that Section 4 had substantial changes to our current bonus system and how employee compensation was determined; she requested that **Ms. Heilman** respond to the committee about this, since **Ms. Heilman's** recommendations differ from language in Section 4, which concerned **Senator Kelly**. **Ms. Heilman** asked the committee to carefully consider in Section 4 the fact that she believed there was too much discretion at the agency level for the state to be able to say that it complies with equal pay for equal work, which was the basis for having a system. Other courts have held that the state is one employer and that similarly situated people must be treated in the same manner by that same employer.

Senator McGee moved that Section 4 be adopted, seconded by **Representative Roberts**.

Representative Kemp made a substitute motion that, on lines 11 and 25 on page 4, these words be added to the end of those sentences as follows: "and the administrator." The motion was seconded by **Senator Kelly**.

Senator Kelly asked if **Representative Kemp** might amend her motion to include subsection (4) on line 38 of page 4 to read: ". . . Code, the department director *with administrator review and approval* may provide a classified employee . . ."

Representative Kemp stated she would be open to that suggestion if **Ms. Heilman** and/or others agreed that was necessary.

Mr. Tim O'Leary, Idaho State Police, stated that the original intent of flexibility was for agencies to have the ability to react as quickly as possible in an aggressive and timely manner, relating to hiring and retaining quality employees, always keeping in mind equal pay for equal work. He believes that directors are charged with enormous responsibility and that they would not make a bonus decision lightly.

Representative Kemp restated her substitute motion to read as follows: "I move that that on lines 11, 25 and 52 on page 4, that the words 'and the administrator' be added to the end of those sentences."

Senator Kelly had seconded this motion, but because the amendment was not agreed upon by the maker of the motion, **Senator Kelly** made an amended substitute motion as follows: "I move that on lines 11, 25 and 52 on page 4, Section 4, that these words 'and the administrator' be added to the end of those sentences, and that on line 38 of page 4 it read: ' . . . Code, the department director *with administrator review and approval* may provide a classified employee . . . ' "

It was pointed out that **Senator Kelly** had seconded the substitute motion, and then made an amended substitute motion, so **Senator Kelly** withdrew her second on the substitute motion and the chair called for a second; hearing none the chair called for a vote on the amended substitute motion, which had just become a substitute motion. A debate took place on the two motions.

The chair called for a roll call vote on the substitute motion and the result was 4 "Ayes" and 7 "Nays." The substitute motion failed, with Senator Marley, Senator Kelly, Representative Kemp and Representative Ringo recorded as voting "Aye."

The chair then called for a roll call vote on the original motion and the motion passed; Senator Marley, Senator Kelly, and Representative Ringo were recorded as voting "Nay."

The committee adjourned for lunch at 12:45 and reconvened at 1:39 p.m. **Representative Schaefer** had arrived, and he called the meeting back to order.

Mr. Freeman referred to Section 5, pointing out that the changes were the same as those previously approved in Section 4, but with regard to nonclassified positions because nonclassified positions were covered in another section of Idaho Code.

Representative Roberts moved that Section 5 as presented be adopted, seconded by Representative Wills, and the motion passed by voice vote with Senator Marley, Senator Kelly and Representative Ringo being recorded as having voted "Nay."

Mr. Freeman referred to page 9, Section 6, lines 34 and 35; he pointed out a change for rules for disciplinary dismissal, demotion or suspension and outlined the criteria which was at the request of the human resource directors. He pointed out page 10, lines 22 through 27, which were proposed changes to code.

Representative Wills asked about an item on page 9, line 34, (2) where it says "job performance that fails to meet established performance standards." **Ms. Heilman** stated that this addition was only to clarify the word "incompetency," and was a clarification for terms already presented; it matched the state's performance management system where there are established standards for each position.

Senator Andreason moved that Section 6 be accepted, seconded by Representative Wills, and the motion passed unanimously by voice vote.

Mr. Freeman next referred to amending budget laws to allow for the employee suggestion awards to be paid from the area in which the savings was realized. For example, if there was a savings in operating expenses or capital outlay, agencies would be allowed to move that money up into personnel costs to pay that award. Currently, agencies are limited to paying that award out of personnel costs, so the change would

allow some funding flexibility.

Representative Roberts moved that **Section 7** be approved, seconded by **Senator Andreason**, and the motion passed by voice vote.

Mr. Freeman referred to page 11, Section 8, which would take moving expenses out of the jurisdiction of the Board of Examiners and put them in Idaho Code. There would be annual reporting requirements to DFM and LSO. DHR would have rulemaking authority with regard to the parameters of the moving expense reimbursement process. **Senator Kelly** expressed concern about giving department directors this much discretion even if they have reporting requirements, once a year, after the fact.

Senator McGee moved that **Section 8** be adopted, and **Senator Andreason** seconded the motion. The motion passed by voice vote.

Mr. Freeman then brought up other human resource issues for the committee's consideration, and the following eight handouts discussed are available in the Legislative Services Office.

Mr. Freeman referred to handout #3. He stated that agency human resource directors recommended Section 1 so that 67-5305 be repealed because it was no longer applicable and needed to be stricken. Section 2 contained new language to *delegate authority to agency human resource departments*, to prevent duplication of efforts. **Mr. Freeman** went over the changes in the entire proposal and suggested that questions be directed to human resource directors.

Representative Roberts asked if the human resource directors and **Ms. Heilman** could speak to the committee on the proposals presented in Sections 1-5. **Ms. Jane Buser**, Boise State University, stated that ongoing discussions had taken place on this proposal to delegate authority, and the rationale behind it was that there is expertise within the human resource agency departments to carry out functions without the duplication of review by DHR, particularly in the classification area. State government could be more efficient and effective, in **Ms. Buser's** opinion, through this delegation of authority, adding that an audit would be part of that process to maintain consistency.

Ms. Heilman stated that authority was rarely delegated without some sort of ability to hold that person responsible. When **Governor Kempthorne** created DHR, his number one goal was to have one person that he could hold accountable for this system and the way it works. Authority has not been delegated authority to date because it is an accountability issue, rather than a legal issue. **Ms. Heilman** stated that another issue was that higher education institutions are complex entities, and they deserve a system of their own; it is very difficult for 1/3 of the employees at a university to be covered by the state personnel system and the other 2/3 of the professional and faculty employees be covered by their own agency system. **Ms. Heilman** has always supported a separate system for higher education in which the university presidents or the State

Board of Education would be accountable. **Ms. Heilman** stated she could not support this proposal without the accountability factor. It is an important issue and she does believe there is duplication in offices, but she thought that it deserved more attention than it could be given at this meeting, given the ripple effects and how people could be held accountable for these decisions. **Representative Schaefer** asked if there was a method to satisfy the needs of higher education and still maintain accountability. **Ms. Heilman** answered that she had recommended to **Dr. Kustra**, and he agreed that he liked it, that the law be changed not by delegated authority but that the law be changed so that either the State Board of Education or each university president be held accountable for the administration of the personnel system within the rules and regulations of the Idaho Code. This would give them the authority they want and basically have parallel tracks in this law being discussed; they would be the responsible party when there was a dispute about a human resource issue.

Representative Roberts moved that the administrator of DHR and institution executives should meet to discuss delegated authority and present consensus legislation. The motion was seconded by Senator McGee

Senator Stegner commented that other agencies may want this authority as well, and suggested that other agency directors be included in this motion. **Representative Roberts** agreed to amend his motion to include agency human resources directors as well, with the approval of **Senator McGee** who had seconded the motion.

Representative Roberts restated his motion as follows: The administrator of DHR, department directors and institution executives should meet to discuss delegated authority and present consensus legislation. The motion passed by voice vote.

Mr. Freeman referred to page 4, Section 3, (w) stating that would give rulemaking authority to allow, at the request of a hiring agency, temporary and acting appointment service time to count toward fulfilling entrance probationary requirements as established in code. Item (x) had been discussed previously.

Senator Stegner moved to adopt subsection (w) on page 4, Section 3, seconded by Senator Kelly, and the motion passed unanimously by voice vote.

Mr. Freeman referred to pages 5, 6, 7 and 8, Sections 5, 6, and 7, explaining that the human resource directors recommended to combine sections of Idaho Code, and these sections were housekeeping issues based on those recommendations. The highlighted language in Section 6 was pointed out "*fairly*" with reference to "*hours of employment*" and added that "*fairly*" could raise red flags from a legal perspective.

Senator Kelly moved that on page 5, Section 6, line 24, the word "fairly" be changed to "in a manner substantially similar," seconded by Senator Marley; the motion passed unanimously by voice vote.

Senator McGee moved to adopt the changes in Section 5, 6 and 7, on pages 5-8, seconded by Representative Roberts, and the motion passed unanimously by voice vote.

Mr. Freeman referred to pages 8 and 9, Section 8, pointing out that this section was more collapsing with one change in paragraph (3) which referred to vacation leave for eligible executive employees, and he asked to defer consideration of that since it would be discussed on an agenda item entitled "tiered leave benefits."

Senator Andreason moved that Section 8, pages 8 and 9, be adopted, except for (3), which was to be discussed later. The motion was seconded by Senator Stegner and the motion passed unanimously by voice vote.

Mr. Freeman referred to page 9, Section 9, pointing out that **Ms. Heilman** had brought this up at the committee's first meeting regarding severance pay, and this section would clarify what severance pay applies to and what it does not. **Senator Kelly moved to accept section 9, page 9, seconded by Senator Stegner and the motion passed unanimously by voice vote.**

Mr. Freeman then opened discussion of tiered leave benefits and passed out that proposal, handout #4. He pointed out that this concept was presented by **Ms. Heilman** at an earlier meeting, and he went over the handout. **Senator Kelly** asked how many employees were considered "executives" in state government. **Ms. Heilman** answered about 500 employees since this would affect current bureau chiefs who are classified. This proposal was designed to take away comp time accrual for executives but replace it with additional vacation time. The Board of Education does not give comp time to their professional staff; they give them five weeks vacation time and they are expected to work within those parameters.

Senator Kelly asked if there was a potential fiscal impact and **Ms. Heilman** answered that DHR could get those figures, but the potential fiscal impact right now is with the appointed political appointees. If an agency director right now has 240 hours of compensatory time, they don't have to use their vacation time; when their term of service ends, then the state is liable to pay off all their vacation time.

Representative Pasley-Stuart asked if these executives were being put on salary and not being paid on an hourly basis. **Ms. Heilman** answered that it was her goal that the state would put them on salary and she recommended that they only report when there is an exception on a half-day basis. If they needed to be away from their job for non-work related reasons for one-half day, they would need to use sick or vacation leave. The move is to get executives away from hourly treatment as much as possible.

Mr. Freeman stated that there could be an indirect fiscal impact, pointing out page 1, lines 27 and 28 which state: "Unused compensatory time shall be forfeited on July 1,

2007." This is with regard to compensatory time earned by executives, so if this were to pass and executives took that time off rather than have it forfeited, there would be lost productivity. **Representative Wills** asked if an employee had compensatory time and they could not take time off prior to July 1, 2007, would they lose those hours, and **Mr. Freeman** stated that under the current language, that would be correct.

Representative Wills stated that he thought this was a very short time span in which to use their compensatory time accrued, asking why not a year? **Ms. Heilman** stated obviously the implementation time would be a legislative decision, but in reality, the administration will end this year, and if you changed the date to eighteen months from now, then those people would have that compensatory time and vacation time payoff when their terms of service ended with our Governor.

Representative Roberts commented that in current language the date is July 1, 2007, and he asked why it was not July 1, 2006 or sooner. **Mr. Freeman** responded that 2007 was an error in the draft legislation -- his intent actually was to have the language read July 1, 2006. **Representative Roberts moved that line 28 be changed to July 1, 2006, seconded by Senator McGee.**

Senator Stegner made a substitute motion to change the date to December 31, 2006. The motion was seconded by Representative Pasley-Stuart.

The chair called for a vote, and the substitute motion passed unanimously by voice vote.

Mr. Freeman pointed out that the date would also need to be changed on page 2, lines 43 and 44, for nonclassified employees.

Senator Andreason moved that the tiered leave benefits proposal as amended be approved, seconded by Senator Stegner, and the motion passed unanimously by voice vote.

Representative Kemp asked for clarification on the proposal deferred on page 8, the rate at which vacation time would accrue, asking if what the committee had just adopted would take care of that and **Mr. Freeman** stated that what the committee just passed in handout #4 rendered moot the deferred issue on page 8, handout #1.

Mr. Freeman stated the next item for the committee's consideration was eliminating the 90-day waiting period for health insurance, as suggested by **Ms. Heilman**, and had become a recruitment issue, handout #4. No legislation would be necessary; it would simply be a recommendation to the Department of Administration.

Senator McGee moved the following language be included in the committee's report: "Newly hired employees shall become eligible for health insurance on the first of the month following the date of hire." The motion was seconded by Senator Andreason, and the motion passed unanimously by voice vote.

Mr. Freeman referred to handout #5 (RSMPN539 and RSMPN531) on limiting movement of personnel costs, down to cover operating expenses or capital outlay requested by **Representative Kemp**, and handout #6 (Authorizing JFAC to Limit Transfer of Personnel Costs by Stegner). **Representative Kemp** stated that she would be willing to withdraw her draft legislation with an understanding of what seemed to be more simple intent in handout #6. **Representative Kemp** asked if there were any major differences. **Mr. Freeman** stated that handout #6 gave JFAC the authority to limit moving personnel costs on a case-by-case basis while Rep. Kemp's proposals were mandatory by stating that there would not be movement, or would not be movement without a petition option.

Representative Kemp asked if **Senator McGee** and **Senator Stegner** would be willing to change the word "may" to "shall" in their proposal in (4) and, if so, she was willing to withdraw her two proposals and support handout #6. **Senator McGee** stated that he was not willing to change that particular word because, even though he disagrees with this practice, there are instances where a state agency may have a particular problem that needs to be addressed in mid-year when not in session, and this would say to agencies that they will no longer do this, but it also allowed flexibility in certain instances.

Representative Roberts stated that this proposal would be a tool which would enable JFAC to limit transfer of personnel costs, pointing out they do not want the word "shall" for every department because he does not believe in micro-managing.

Representative Kemp withdrew her two pieces of draft legislation.

Representative Kemp moved to accept the new language in handout #6, Section 1 of 67-3511, subsection (4), authorizing JFAC to limit transfer of personnel costs, seconded by **Senator McGee**. The motion passed by voice vote, with **Senator Marley** and **Senator Kelly** having been recorded as voting "Nay."

Mr. Freeman referred to handout #7, a memorandum from the Department of Administration, which discussed increasing the long-term disability maximum benefit. This gave the estimated fiscal impact on how much it would cost, an issue brought to the committee by human resource directors.

Senator Stegner moved that this issue of increasing the long-term disability program be examined by the CEC Committee and their recommendation be forwarded to the germane committees this session. The motion was seconded by **Senator Andreason**, and the motion passed unanimously by voice vote.

Mr. Freeman next referred to handout #8, a proposal by **Representative Kemp** that the Friday following Thanksgiving become a state holiday, rather than the second Monday in October (Columbus Day). **Representative Kemp** stated it might be necessary to add

language in 67-5329 (cash for overtime) on page 5 of that proposal, which was adopted, and that lines 15-17 could read: "If they work on one of the official holidays listed above, they may take an alternative day off but shall not receive additional compensation." **Mr. Tim O'Leary**, Idaho State Police, stated that an alternative day off might be acceptable, but that there were unique issues with ISP and that phrase could be problematic. **Representative Kemp** withdrew her proposal, handout #8.

Mr. Freeman referred to handout #9, which would update the definition of nonclassified employees, and **Representative Kemp** stated that Ms. Heilman had suggested this should be changed. **Mr. Freeman** stated that Idaho Code 67-5303 defines nonclassified employees. In subsection (j) the term "officer" is defined and includes a reference to step "A," and he added that we no longer have steps in our pay system. The entry rate of "J" used to refer to the entry rate for professional jobs, but that section of code had been rewritten and pay grades expanded so broadly that the entry rate level of "J" meant nothing other than that the job pays more than \$31,700 or \$15.25 per hour. **Ms. Heilman** suggested that this was something that could be done during the session and suggested getting a consensus from all the higher educational institutions.

Senator Andreason moved that the committee defer this subject for further consideration, seconded by Senator Marley, and the motion passed unanimously by voice vote.

Mr. Freeman referred to handout #10, a proposal to authorize the Board of Examiners to approve salary or other compensation to obtain or retain "mission critical" positions. **Representative Kemp** explained that this was brought to her attention by a few members in the House, and the human resource directors had also discussed this, so that "mission critical" positions could be filled and employees retained in certain positions. **Senator Andreason** asked how this would differ from proposals adopted previously, with regard to the Board of Examiners, and **Mr. Freeman** answered that the Board of Examiner's role was to approve bonuses in excess of the \$1,000 cap or the employee suggestion awards in excess of \$1,000 cap, so this proposal did not fall within either of those categories. **Senator Stegner** commented to **Representative Kemp** that the committee had gone to great lengths to try to remove the Board of Examiners from this authorization authority, so was reluctant to begin adding them on and wondered if some other level of government could be adequate to consider this rather than the state Board of Examiners.

Representative Roberts moved that this proposal (handout #10) be held in this committee, seconded by Senator McGee, and the motion passed unanimously by voice vote.

Mr. Freeman stated that all of the interim committees would be presenting their committee reports to the Legislative Council and legislative leadership on January 10th, and the State Employee Compensation was scheduled for 3:30 p.m. in the JFAC Room; that same report will be presented on January 11th by **Mr. Freeman** to JFAC. **Mr.**

Freeman informed the committee that he would draft the final report. **Senator Marley** suggested that the committee members be able to review the final report prior to being presented to the Legislative Council and JFAC, and **Mr. Freeman** agreed to send out drafts of that report for the committee members.

Representative Kemp passed out handout #11, which she had prepared for this same discussion for the November 28th meeting, and this handout was her suggestions for possible inclusion in the committee report. She invited comments be made on her suggestions to **Mr. Freeman** and requested that this handout be included in these minutes.

The meeting was adjourned at 4:15 p.m.

Addendum: **Representative Kemp's** suggestions for the committee report